IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.9911 OF 2004

V.V. Yadav — Petitioner

vs.

The State of Maharashtra & ors. — Respondents

Mr.Sachin Dhakephalkar i/b. Mr.P.K.Dhakephalkar for the petitioner.

CORAM : R. M. LODHA &
R. S. MOHITE,JJ.

DATED : 27th April 2005

P.C.

Heard Mr.Sachin Dhakephalkar, the learned counsel for the petitioner. We perused the enquiry report as well as the order of the disciplinary authority.

2. The petitioner who was working as a stenographer in the Court of the District and Sessions, Solapur was charged of serious misconduct and misbehaviour and unbecoming on the part of the Government servant thus:

> One Shri. Suresh Sayabanna Waghmare has made complaint on 25-6-1999 against you and alleged that, the son of the complainant had given application for the post of Peon at the time of recruitment process. You have given assurance to the complainant (Applicant) about the selection of Complainant's (Applicant) son, for the post of peon, and obtained Rs.40,000/- through Shri.Balkrishna Palkritwar, Ex employee of this department for doing the said work.
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> The complainant (applicant) also made

allegation that, Shri.Palkritwar before his death had sent one letter to you, on perusal the said letter it is revealed that, Shri. Palkritwar had asked you to refund the amounts to 7 persons named in the letter including Shri.Waghmare. Further he has made allegations that, when the recruitment process was going on, you have made demand of additional amount of Rs.20,000/- and have received the amount of Rs.20,000/- from the complainant (applicants) on 1-4-1999. The process of recruitment was over, but the complainant's (applicant) son was not selected, hence complainant (applicant) approached you and demanded the refund of Rs.60,000/- which was received by you from the said complainant (applicant) for recruitment.

Thereafter, you were giving assurance to return the amount and was also saying that you had made payment to some Judges and you will take back the amount from them and return the same to complainant (applicant). Lastly, on 1-6-1999, you have executed bond dated 13-5-1999 in favour of complainant Shri.Waghmare and thereby, you have admitted that you have accepted Rs.60,000/- as bribe from complainant Shri.Waghmare for recruitment and agreed to return the same on or before 1-6-1999. On verifying the stamp paper it is noticed that you have personally purchased the said stamp paper and have made your signature on it in token of having purchased the stamp paper.

Thus, you have deceived the complainant (applicant) Waghmare and obtained amount from him as bribe or illegal gratification by giving false assurance of selection of complainant's (applicants) son.

Your above act of accepting bribe or illegal gratification amounts to misconduct, misbehaviour and unbecoming on the part of the Government servant.

Another Shri.A.K.Patil made complaint dated 30-6-1999 against you, alleging that, his daughter had applied for the post of clerk when the applications were called by the District Court for preparing waiting list for Clerks.

The complainant (applicant) has complained that you have given assurance of selection of his daughter and received an amount of Rs.30,000/- on 1-6-1997 and Rs.20,000/- on 5-12-1997. As such, you have received amount of Rs.50,000/- through Shri B.D.Palkritwar by giving the assurance that daughter of applicant will be selected for the post of clerk. The complainant has also alleged that the process of recruitment was over and when the name of his daughter was not found in the waiting list, he approached you and demanded the amount back. Then you have given assurance to refund the said amount stating that, you will obtain back the amounts from the Judge and refund it. You were giving such assurances and lastly have executed a bond in complainants' favour for the refund of the said amount. On verifying the said bond, it is noticed that, the stamp paper of said document is purchased on 22-3-1999 by yourself from the stamp vendor, and you have signed the same in token of having purchased it. In this bond there are recitals that you have received the amount of Rs.50,000/- from the complainant (applicant) for selection of the daughter of the complainant. There is further mention in this bond that, you could not do work of the complainant, and hence you have agreed to return the amount of Rs.50,000/- to the complainant (applicant) Patil.

Thus, you have deceived the above complainant (applicants) and have received the amounts as bribe from them by giving false assurances of selection of the relatives the complainants i.e. son and daughter.

Thus, your above act of accepting bribe amounts to misconduct and misbehaviour and unbecoming on the part of the Government servant."

3. In the departmental enquiry, the Enquiry Officer examined various witnesses viz. PW1-Suresh Sayabanna Waghmare, PW2-Arun @ Ambarnath Keshavrao Patil, PW3-Siddheshwar Nagnath Sanga and PW4-Prakash Tukaram

Shinde. Various documents were also proved. The delinquent examined one Hirachand D. Jadhav, S.T.conductor. The Enquiry Officer, on consideration of the entire evidence and material before him held:

(one) that the delinquent accepted an amount of Rs.40,000/- on 23.10.1997 and an additional amount of Rs.20,000/- on 01.04.1999 from Suresh Sayabanna Waghmare (PW1) as bribe and illegal gratification under false assurance of giving job to his son as peon in the District Court, Solapur;

(two) that the delinquent accepted a sum of Rs.30,000/- on 01.06.1997 and an additional amount of Rs.20,000/- on 05.12.1997 from Arun @ Ambarnath Keshavrao Patil (PW2) as bribe and illegal gratification under false assurance of giving job to his married daughter as junior clerk in the District court, Solapur;

(three) that the delinquent assured Suresh Sayabanna Waghare (PW1) to refund the amount of Rs.60,000/- received from him under a bond (Ex. 32) dated 13.05.1999; and

(four) that the delinquent assured Arun @ Ambarnath Keshavrao Patil (PW2) to refund a sum of Rs.50,000/- under a bond (Ex.36) dated 22.03.1999.

4. The disciplinary authority concurred with the aforesaid findings of the Enquiry Officer and held that

the delinquent was guilty of misconduct punishable under Rule 5 of the Maharashtra Civil Services (Discipline and Appeal) Rules, 1979.

5. The contention of the learned counsel that Suresh Sayabanna Waghmare (PW1) and Arun @ Ambarnath Keshavrao Patil (PW2) made the false complaint to harass the delinquent because the delinquent had lodged a complaint against them on 31.05.1999 hardly merits acceptance. From the evidence that had come on record before the Enquiry Officer it is well established that the delinquent did accept the amount of Rs.60,000/- from Suresh Sayabanna Waghmare (PW1) and an amount of Rs.50,000/- from Arun @ Ambarnath Keshavrao Patil (PW2) as a bribe and illegal gratification.

6. The other contention of the learned counsel for the petitioner that in so far as the execution of the two bonds by the delinquent was concerned, it was done under pressure exerted by Suresh Sayabanna Waghmare and Arun @ Ambarnath Keshavrao Patil also has no merit. The evidence that came before the Enquiry Officer shows otherwise. The execution of the two bonds by the delinquent after purchasing the requisite stamp paper is also fully established.

7. That the delinquent was guilty of gross misconduct

in accepting the bribe and illegal gratification from PW 1 and PW2 is established and in view thereof, the order passed by the disciplinary authority retiring the petitioner compulsorily does not call for any interference.

8. No case for interference is made out.

9. Dismissed in limine.

(R.M.LODHA,J.)

(R.S. MOHITE,J.)